

REMARKS

Claims 1-2 and 6-15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Yamada (U.S. Application No. 2005/0099113) (hereinafter “Yamada”). Claims 3-5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamada in view of by Hirano (U.S. Application No. 2003/0171060) (hereinafter “Hirano”). These rejections are respectfully traversed for at least the following reasons.

Applicant respectfully submits that Yamada cannot be applied as prior art under 35 U.S.C. §§ 102(e) or 103(a) for the following reasons. Yamada does not appear to qualify as prior art under 35 U.S.C. § 102(e), and thus cannot be applied under 35 U.S.C. §§ 102(e) or 103(a) against the instant application. In particular, 35 U.S.C. § 102(e) provides that a published U.S. patent application is effective as prior art under 35 U.S.C. § 102(e)(1) as of the application’s effective U.S. filing date, which can include an international application filing date, if the following three conditions are met: (1) the international application was filed on or after November 29, 2000, (2) the international application designated the U.S., and (3) the international application PCT publication (by WIPO) was in the English language.

From reviewing the WO/2003/030592 document, which Applicant understands is the WIPO publication of its related PCT International Application No. PCT/JP2002/009581, it appears that at least item (3) of the foregoing items (1)-(3) is not met because the WIPO publication was not printed in the English language (i.e., it was printed in the Japanese language). Applicant attaches hereto a copy of the cover sheet of the PCT WO/2003/030592 document which includes an indication under “Publication Language” that the language of the international publication is Japanese.

Accordingly, if Applicant's understandings are correct, the U.S. Published Yamada Application does not qualify as prior art under 35 U.S.C. § 102(e). As a result, all of the outstanding rejections under 35 U.S.C. §§ 102(e) and 103(a) should be withdrawn because they all apply Yamada.

Moreover, Applicant notes that as a result of the foregoing discussion, Yamada can only be applied as prior art as of its publication date of May 12, 2005. However, as the instant U.S. application no. 10/674,537 was filed on October 1, 2003, Yamada would not qualify as prior art under other sections of 35 U.S.C. § 102.

However, Applicant notes that the above-discussed WO/2003/030592 appears to have published on April 10, 2003 which is less than one year prior to the filing date of this U.S. application. Accordingly, while it appears that this PCT publication could not be applied against the instant application under § 102(b), it still could be applied against the instant application under 35 U.S.C. § 102(a). In light of this situation, Applicant takes the following additional action at this time.

On October 1, 2003, Applicant filed a Claim for Priority and Certified Copy of Japanese Patent Application No. 2002-290519 which was filed in Japan on October 2, 2002. Pursuant to 37 C.F.R. § 1.55(a), Applicant submits concurrently herewith a verified English-language translation of the instant application's Japanese priority patent application no. 2002-290519. The publication date of the WO/2003/030592 document is April 10, 2003 which is after the priority date of October 2, 2002 to which this application is entitled. Accordingly, Applicant respectfully submits that the WO/2003/030592 document should also not be considered as prior art in the present application under any subsection of 35 U.S.C. § 102.

To the extent that any of Applicant's understandings, as set forth above, are incorrect, the Examiner is requested to provide clarification of such in the next Office Communication.

CONCLUSION

In view of the foregoing, Applicant submits that the pending claims are in condition for allowance, and respectfully request withdrawal of all outstanding objections and rejections, and request the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution. A favorable action is awaited.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

DRINKER BIDDLE & REATH LLP



Paul A. Fournier

Reg. No. 41,023

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By:

Customer No. 055694
DRINKER BIDDLE & REATH LLP
1500 K Street, N.W., Suite 1100
Washington, DC 20005-1209
Tel.: (202) 842-8800
Fax: (202) 842-8465

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(WO/2003/030592) ORGANIC ELECTRIC FIELD LIGHT EMITTING DEVICE

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Latest bibliographic data on file with the International Bureau

Publication Number: WO/2003/030592 **International Application No.:** PCT/JP2002/009581**Publication Date:** 10.04.2003 **International Filing Date:** 18.09.2002**Int. Class. 7:** H05B 33/14, H05B 33/24, H05B 33/28**Applicants:** SONY CORPORATION [JP/JP]; 7-35, Kitashinagawa 6-chome Shinagawa-ku, Tokyo 141-0001 (JP) (All Except US).

YAMADA, Jiro [JP/JP]; c/o SONY CORPORATION 7-35, Kitashinagawa 6-chome Shinagawa-ku, Tokyo 141-0001 (JP) (US Only).

Inventor: YAMADA, Jiro [JP/JP]; c/o SONY CORPORATION 7-35, Kitashinagawa 6-chome Shinagawa-ku, Tokyo 141-0001 (JP).**Agent:** NAKAMURA, Tomoyuki; c/o Miyoshi International Patent Office 9th Floor, Toranomon Daiichi Building 2-3, Toranomon 1-chome Minato-ku, Tokyo 105-0001 (JP).**Priority Data:** 2001-299648 28.09.2001 JP**Title:** ORGANIC ELECTRIC FIELD LIGHT EMITTING DEVICE**Abstract:** A self-emission type organic electric field light emitting device which provides a favorable luminance efficiency or the like by suppressing light absorption as much as possible in an electrode layer to extract light satisfactorily in the case of emission via the electrode layer. The organic electric field light emitting device constituted by sandwiching a light emitting layer (3) made of an organic material with a first electrode (2) and a second electrode (4) so as to extract light from the light emitting layer (3) to at least one of the first electrode (2) and the second electrode (4) has the light absorption factor of 10% or less in the electrode for extracting light from the light emitting layer (3) out of the first electrode (2) and the second electrode (4).**Designated** CN, KR, SG, US.**States:** European Patent Office (EPO) (AT, BE, BG, CH, CY, CZ, DE, DK, EE, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE, SK, TR).**Publication Language:** Japanese (JA)**Filing Language:** Japanese (JA)